

The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists
September 24, 2008
10:00 a.m.

A regular meeting of the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists was conducted, Wednesday, September 24, 2008 at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601.

Members Present

Cheryl Bentle, Board Chair
Jane Faith, Secretary
Karen Gilliam
Cynthia K. Matthews
Rita L. Dillman
Leona Gilliam

Occupations and Professions

Karen Lockett, Board Administrator
Gerald Hoppmann, Director

Office of the Attorney General

Mark Brengelman, Board Attorney
Ryan Hollaran, Office of Attorney General

Members Absent

Erin Eliassen

Others in Attendance

Amanda Goldman, KDA President-Elect
Erin Brantley

Call to Order

Ms. Bentley called the meeting to order at 10:00 a.m.

Approval of Minutes

Ms. Matthews made a motion to approve the amended minutes from March 26, 2008 and July 30, 2008. Ms. Faith seconded the motion. Motion carried.

Approval of Financial Statement

Ms. Faith made a motion to approve the financial statement as submitted. Ms. K. Gilliam seconded the motion. Motion carried.

Director's Report

Mr. Hoppmann discussed the Executive Order 2008-454 (May 27, 2008): *Relating to Standards of Ethical Conduct in the Executive Branch of State Government*. Mr. Hoppmann explained that Sections 6, 7, and 8 relate specifically to regulatory boards and commissions, language from HB 250 (Governor's Ethics Bill), which did not become law during the 2008 legislative session.

Section 6 discusses prohibitions against sitting Board members conducting business with boards on which they are members; Section 7 discusses requirements regarding making general disclosures to the Board with respect to conflicts of interest, as well as specific disclosures during Board meetings, where Board members should recuse themselves from voting; and Section 8 discusses requirements for Board members to follow standards set forth in KRS Chapter 11A related to gift acceptance regulated entities and individuals.

The Executive Order was informational, which required no formal Board action.

New Business

The Board discussed Ms. Erin Brantley's reinstatement application, based on additional continuing education documentation provided to the Board. Ms. L. Gilliam made a motion to approve Ms. Erin Brantley's reinstatement application. Ms. Dillman seconded the motion. Motion carried.

The Board also discussed various concerns identified during the reinstatement application review process related to continuing education documentation, as well as the type of work Ms. Erin Brantley did for her employer after the expiration of her license. Ms. Matthews made a motion for Mr. Hoppmann to request that the Office of the Inspector General, within the Public Protection Cabinet, conduct an investigation to review and verify information provided by Ms. Erin Brantley, as part of continuing education documentation, as well as review and verify information Ms. Erin Brantley provided to the Board, stating she was not engaged in the practice of dietetics or using the title of dietitian, during the period she was not licensed by the Board. Ms. Jane Faith seconded the motion. Motion carried.

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The Board reviewed an e-mail from Ms. Melinda Hinkle requesting clarification about education of patients and whether Dietetic Technicians may educate patients. Ms. Matthews made a motion for Ms. Jane Faith to send a correspondence to Ms. Hinkle stating that the Kentucky Board of Licensure and Certification for Dietitians and Nutritionist does not regulate Dietetic Technicians; rather, that such issues are hospital policy. The Board discussed they are not to practice as a dietitian without as license. Ms. Faith seconded the motion. Motion carried.

The Board reviewed an e-mail from Ms. Paula Mary Barry asking if it would comment on email discussion related to the scope of practice of a dialysis technician to assess and educate patients on dietary intake regarding albumin (protein) and phosphorus, which may involve gathering information, advising on intake, reinforcing the use of phosphate binders, and answering specific questions in regard to food consumption and avoidance. Ms. Matthews made a motion for staff to respond stating that the Board does not regulate dialysis technicians but they are not to practice as a dietitian without a license. Ms. L. Gilliam seconded the motion. Motion carried. Ms. Faith and Ms. K. Gilliam recused themselves from the vote.

The Board reviewed a letter from Mr. Kirk Wool requesting license verification on an individual who works for the Correctional Corporation of America (CCA), as well as her analysis of CCA menus. Ms. Dillman made a motion to respond to Mr. Wool, providing the licensure status of the individual. Ms. Matthews seconded the motion. Motion carried.

The Board reviewed an e-mail from Ms. Bentley to Ms. Carolyn Dennis informing her that the Kentucky Dietetic Association (KDA) may submit a list of names of Licensed Dietitians and Certified Nutritionists that KDA would like to recommend that the Governor consider when appointing new members to the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists, as Board members terms expire and vacancies become available. The email was informational and required no formal action by the Board.

The Board reviewed email correspondence between Ms. Tonya Chang and Ms. Bentley regarding promulgation of regulations after the passage of SB 158. Mr. Hoppmann stated the Board is in the process of discussing various regulations, etc., as it relates to SB 158 changes and other licensee issues. The email was informational and required no formal action by the Board.

The Board reviewed email correspondence between Ms. Beverly Lenahan and Ms. Bentley related to questions about the approval of continuing education. The email was informational and required no formal action by the Board.

The Board received a flyer discussing Ms. Jane Gates, Wellness Consultant. The flyer referred to Ms. Gates as being a dietitian and certified personal trainer. The Board discussed that Ms. Gates is not in the data base as a Kentucky Licensed Dietitian or Certified Nutritionist. Ms. L. Gilliam made a motion to send Ms. Gates a Cease and Desist letter, an application along with the applicable statutes and regulation, and a request that Ms. Gates inform the Board if there are exemptions from those statutes and regulation. Ms. K. Gilliam seconded the motion. Motion carried.

The Board discussed the provisional approval process. The opinion of legal counsel stated that there is no statutory authority for anyone besides the Board to issue a license. To issue a license, a quorum of the Board must meet, deliberate, and vote in open session. It is the legal opinion that the practice of sending applicants a "provisional license" before the Board meets and takes the required action should cease. However, the Board may be able to delegate authority to various Board members to approve licensure, upon further review by the Board. The Board Counsel stated he would explore the issue in more detail.

The Board reviewed correspondence from Ms. Emily Harkenrider, LRC, related to concerns with 201 KAR 33:020 Section 3. The correspondence stated that the regulation technically exceeds the authority of KRS 310.050 (4). Ms. Bentley made a motion for Mr. Hoppmann file a regulation amendment to 201 KAR 33:020 Section 3 to change shall to may, with respect to sending cease and desist notices. Ms. Matthews seconded the motion. Motion carried.

The Board reviewed suggested changes to 201 KAR 33:015 (Application; Approved Programs), proposed by the Board Attorney. The Board took no formal action on the suggested changes but plans to resume the discussion at the next schedule meeting.

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Mr. Hoppmann updated the Board on 201 KAR 33:020 (Renewals). The amended regulation became effective on July 7, 2008.

The Board discussed the benefits of continuing to send a courtesy renewal notice to all licensed dietitians and certified nutritionists, reminding them of the renewal deadline in an effort to assist them with timely renewals. The Board discussed the benefits of also sending a courtesy reminder of the sixty (60) day grace period to licensees and certificate holders that fail to renew by the deadline of October 31st. Ms. Bentley expressed that through this courtesy it serves as a proactive way for the Board to assist licensed dietitians and certified nutritionists with renewals in an effort to prevent revocation of licenses or certificates due to failure to renew, which could interfere with employment. Ms. Faith made a motion that all licensed dietitians and certified nutritionists be sent the renewal notices. Ms. K. Gilliam seconded the motion. Motion carried. Ms. Bentley will draft a form letter.

The Board discussed requiring, through regulation, that licensees and certificate holders notify the Board of a change of address within thirty (30) days of the change, in order for the Board to ascertain and maintain a current address for each licensee or certificate holder. Ms. Bentley made a motion to amend 201 KAR 33:020 (Renewals) by adding Section 5 to require that within thirty (30) days of a change of address notice shall be filed to the Board, in writing, of the current mailing address. Ms. Matthews seconded the motion. Motion carried.

Mr. Hoppmann will follow-up with the Compiler of Regulations to see if a technical amendment can be used to change the address of the Division of Occupations and Professions in all applicable administrative regulations, in order to change the obsolete address to the current mailing address.

Ms. Bentley made a motion that when notification of revocation pursuant to KRS 310.042 is mailed that it be sent by certified mail, rather than regular mail. Ms. Dillman seconded the motion. Motion carried.

Ms. Bentley made a motion for the Board Chair; Mr. Hoppmann; Mr. Brengelman; and, if desired by the Board Chair, another Board member at the Board Chair's choosing to be granted authority to work together to review and revise form letters. Ms. K. Gilliam seconded the motion. Motion carried.

Ms. Bentley made a motion to revise the form letter currently being used to notify new applicants that they have been approved as a licensee or certificate holder and to specifically remove the verbiage related to an annual notice of renewal form will be sent approximately six (6) weeks prior to the expiration date of October 31st each year. Ms. K. Gilliam seconded the motion. Motion carried.

Ms. Bentley made a motion to revise the Cease and Desist letter to remove verbiage that *acceptable documentation may be any or all of the following types: Certificates of attendance, transcripts for academic coursework, reprints of journal articles published; or proof of attendance, description of activity, and professional qualifications of the presenter for out of state continuing education activities*. Ms. K. Gilliam seconded the motion. Motion carried.

The Board discussed Ms. Ann Hagman reinstatement application. Ms. Matthews made a motion to approve Ms. Hagman reinstatement application. Ms. Faith seconded the motion. Motion carried.

At 3:00 p.m. Ms. Faith made a motion to go into closed session pursuant to KRS 61.810 (1) (c). Ms. Matthew seconded the motion. Motion carried. At 3:30 p.m., the Board came out of closed session.

Old Business

Due to the time of the day and the amount of continuing education requests, applications for licenses, applications for reinstatement, and audit reviews still to be reviewed and approved by the Board, the Board discussed whether to table the unresolved Old Business until the next scheduled board meeting. Ms. Faith made a motion to table the unresolved Old Business until the next scheduled board meeting on November 12, 2008. Ms. K. Gilliam seconded the motion. Motion carried. Unresolved Old Business agenda items to be discussed at the November 12, 2008 meeting will include: 201 KAR 33:015 (Application approved programs); 201 KAR 33:030 (Continuing education requirements for licensees and certificate holders); and SB 158 which amended KRS 310.041 (retired or inactive status, voluntary relinquishment of licensure or certification, and conditions for subsequent reinstatement) and 310.050 (fees) – requiring the Board to promulgate administrative regulatory language to implement these provisions.

Continuing Education Requests

Ms. K. Gilliam made a motion that the following continuing education program(s) and hours be **approved**:

- Ellen Behrend – Annual Co. Meeting & Educ Symposium- Approved for 8.0 hours
- Allissa Bryan – Bariatric Nutrition & Adjustable Gastric Banding – Approved for 1.0 hour
- Donna Cambron – Right Start Advanced Learning Seminar-Approved for 4.0 hours
- Amy Fernnel – Bariatric Nutrition & Adjustable Gastric Banding-Approved for 1.0 hour
- Jennifer Fuller- Womens Health Update-Approved for 2.0 hours
- Karen Gilliam- Regional Nutrition Meeting-Approved for 3.5 hours
- Stacy Wiseheart-Fall Renal Symposium-Approved for 7.0 hours
- Marianne Melville-2008 WVEKY Regional Nutrition Meeting-Approved for 3.5 hours
- Ann Newberry-Bariatric Nutrition Adjustable Gastric Banding-Approved for 1.0 hour
- Susan Palmer-DCI: Spring 2008 Workshop-Approved for 4.5 hours
- Lori Rosel-Davita Dietitian Training Programs-Approved for 30 hours
- Suzanne Seeley-Bariatric Nutrition Adjustable Gastric Banding-Approved for 1.0 hour
- Tara Shelton- Nutrition & Dietary supplements for cardiovascular health-Approved for 2.0 hours
- Tara Shelton-2008 Diabetes Workshop-Approved for 6.0 hours
- Southern AHEC-The latest advances in diabetes management-Approved for 7.0 hours
- Kathy Timmons-Bariatric Nutrition & Adjustable Gastric Banding-Approved for 1.0 hour
- Cadelia Turpin-Bariatric Nutrition & Adjustable Gastric Banding-Approved for 1.0 hour
- Patricia Williams-Cardiovascular Nutrition: Disease Mngt and Prevention-Approved for 30.0 hours
- Patricia Williams-Nutrition Care of Diabetes-Approved for 10.0 hours
- Rebecca Wright-Bariatric Nutrition and Adjustable Gastric Banding-Approved for 1.0 hour

Included in the motion are **Denials** for the following:

- Bonnie Holt-Diabetes in the primary care setting-Denied for 3.5 hours
- Karen McNees-Denied for 15.0 hours
- TMMK-Denied for 3.0 hours

Ms. Matthews seconded the motion. Motion carried

Applications for Licensure

Ms. K. Gilliam made a motion to **approve** the following applications for licensure:

Christi M. Baron, Malori Cook, Jacqueline Craig, Tracey A. Dixon, Barbara J. Glanz, Kellie R. Gray, Sarah L. Hall, Scott Hartman, Rachel C. Holt, Nancy C. Johnson, Rebekah Rogers, Nancy Stephens and Julie Vanderpool. Ms. Matthews seconded the motion. Motion carried.

Applications for Reinstatement

Ms. Faith made a motion to **approve** the following applications for reinstatement: Erin Brantley, Robert Ginn, Anne Hagman, Linda Howsen, Karri A. Harding, Leah M. Patterson, and Allyson Wallbridge. Included in the motion was to **disapprove** the following: Armanda Brunicardi. Ms. K. Gilliam seconded the motion. Motion carried.

Scheduled Meeting

The next meeting will be on Wednesday, November 12, 2008 beginning at 10:00 a.m. at the Division of Occupations and Professions located at 911 Leawood Drive, Frankfort, Kentucky.

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Approval for Travel and Per Diem

Ms. Dillman made a motion to approve travel and per diem for today's meeting. Ms. L. Gilliam seconded the motion. The motion carried.

Adjournment

Ms. Dillman made a motion that the meeting be adjourned. Ms. Matthews seconded the motion. The meeting was adjourned at 5:15 p.m.

Approved:

A handwritten signature in cursive script that reads "Cheryl Bentley".

Cheryl Bentley, Chairperson
Minutes Prepared by
Karen Lockett, Board Administrator
September 24, 2008